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SENATE BILL 661 By
Jackson

HOUSE BILL 740
By Jones, S.

AN ACT to amend Tennessee Code Annotated, Title 68, Chapter 5,
relative to newborn hearing screening.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 5, is amended by adding
Sections 2 through 9 as a new part to be designated as follows:

PART 8.

SECTION 2. The general assembly finds and declares the following:

(1) Congenital hearing loss occurs in approximately one to three (1-3) infants per
one thousand (1000) born in the United States, thus potentially effecting as many as two
hundred fifty-four (254) infants in Tennessee each year;

(2) Infants with undected or untreated hearing loss will not develop language
normally because most language development occurs before eighteen (18) months of
life and lack of normal auditory input during this critical period will irreversibly interfere
with the healthy development of language skills;

(3) The lack of normal language development has substantial negative effects on a child's cognitive and social development and will interfere with success in school and later life;

(4) Hearing loss occurs in newborns more frequently than any other health condition for which newborn screening is currently required;

(5) New advances in technology have made newborn hearing screening reliable, efficient and cost effective;

(6) Early detection of hearing loss (i.e., before six (6) months of age), coupled with medical, audiological, and educational intervention and treatment, is highly effective in improving the outcomes of infants identified with congenital hearing loss. This, in turn, can reduce the need for long term special education services and substantially reduce the expenditure of public funds;

(7) Authoritative and respected government and professional groups, including the National Institutes of Health Consensus Development Panel, the Healthy People 2000 Report from the U.S. Department of Health and Human Services, the Joint Committee on Infant Hearing (comprised of representatives from the American Academy of Pediatrics, the American Academy of Audiology, the American Speech-Language-Hearing Association, the American Academy of Otolaryngology-Head and Neck Surgery, the Council for Education of the Deaf, and the Directors of Speech and Hearing Programs in State Health and Welfare Agencies), have all recommended that congenital hearing loss be identified shortly after birth, with intervention and treatment begun before six (6) months of age; and

(8) This legislation will assist the departments of health and education in coordinating their ongoing programs to provide a more cohesive and coordinated approach to finding, tracking, and habilitating hearing impaired children and assisting their parents.

SECTION 3.

(a) The purpose of this part is to provide a statewide comprehensive and coordinated interdisciplinary program for identifying newborns with hearing loss and ensuring that they receive the appropriate diagnostic evaluation and follow-up care by utilizing existing resources and intervention services.

(b) All other state departments, including the department of education, and county and municipal health departments and education departments shall cooperate with the department of health in carrying out the provisions of this part.

SECTION 4. Unless the context otherwise requires, the following definitions shall apply:

(a) "Birth admission" means the time after birth that the newborn remains in the hospital prior to discharge.

(b) "Commissioner" means the commissioner of the department of health.

(c) "Department" means the department of health.

(d) "Hearing loss" means a hearing impairment in one or both ears of sufficient degree to interfere with the development of language and speech skills (i.e., 30dB HL or greater in the frequency region important for speech recognition and comprehension, approximately 500-4000Hz). However, as technological advances allow for the detection of less severe hearing loss, the department, in collaboration with the task force shall have authority to modify the definition of "hearing loss" by rule.

(e) "Infant" means a child up to twelve (12) months of age.

(f) "Intervention and/or follow-up care" means the "child find, evaluation, service coordination and early intervention services" described in Part C of the Individuals with Disabilities Education Act (hereinafter "IDEA").

(g) "Medical Assistance Program" means the state-administered Medicaid program, TennCare.

(h) "Newborn" means the period from birth to thirty (30) days.

(i) "Parent(s)" means natural parent(s), step-parent(s), adoptive parent(s), legal guardian(s) or other legal custodian of a child.

(j) "Program" means the newborn infant hearing screening, tracking, and follow-up program established under the maternal and child health section of the Tennessee department of health.

(k) "Screening for hearing impairment" means employing a physiologic screening measurement for identifying whether an infant has a disorder of the auditory system. Procedures may include auditory brainstem response (ABR) screening, otoacoustic emissions (OAE) screening or other technologies approved by the department of health by the recommendation of the task force.

(l) "Task force" means a voluntary Universal Newborn Hearing Screening task force comprised of professionals, parents of children who are hearing impaired, and individuals with hearing impairments who are interested in universal newborn hearing screening in Tennessee.

(m) "TEIS" means the Tennessee Early Intervention Services (Part C program described in the IDEA), a program that serves families of children with special needs from birth to three (3) years of age administered through the department of education.

SECTION 5.

(a) The department of health shall establish a statewide comprehensive and coordinated interdisciplinary program for identifying newborns with hearing loss and ensuring that they receive the appropriate diagnostic evaluation and follow-up care.

(b) Such program shall coordinate comprehensive services with other state programs such as children's special services, the newborn screening program, Tennessee early intervention services and other related services that will aid in the prevention and treatment of newborns identified with hearing loss.

SECTION 6.

(a) Newborn hearing screening established by this part shall be provided only to newborns born in a hospital or birthing center.

(b) All licensed hospitals and birthing centers providing maternity and newborn infant care services shall assure that hearing screenings are completed on every infant prior to discharge from the facility.

(c) Hearing screen results shall be reported to the department of health through the newborn screening system on the lab form designated by the department of health.

(d) The hospital or birthing center shall inform the parent or guardian of the results of the hearing screening prior to hospital or birthing center discharge. Any infant who does not pass the hearing screening shall be referred to the infant's primary care physician for further testing or medical management, by the hospital or birthing center to the department of health for assistance in coordination of follow-up.

(e) An infant whose hearing screening test results indicate a need for further diagnostic audiologic examination shall be referred by the department of health newborn hearing screening program to the department of education TEIS program, who will be responsible for follow-up child find activities.

(f) The department of education, in compliance with IDEA, shall assume responsibility for assisting hospitals, physicians, and parents in the identification of diagnostic and intervention services within their respective communities.

(g) The department of health shall be responsible for developing a database on the number of infants screened, referred, and confirmed as having a hearing loss.

(h) Any person providing screening shall be properly trained and appropriately supervised by a state-licensed health care professional as defined in the rules promulgated by the department. The screen shall follow testing and referral rate guidelines established by the department.

(i) The department of health is authorized to promulgate necessary rules and regulations to implement the provisions of this part in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 7.

(a) Any health care provider of delivery services in a non-hospital setting shall be responsible for submitting the newborn metabolic and hearing screen form to the department of health, even if the hearing screen was not performed, and shall advise the parent, guardian or custodian of the need to obtain a hearing screening within thirty (30) days as part of a referral of the newborn to a hospital, physician, or a facility that performs hearing screening. The department of health and TEIS shall also assist in identifying appropriate facilities that provide hearing screening.

(b) Any person(s) residing in Tennessee who is the parent(s) of an infant born in Tennessee in a location other than a Tennessee health care facility and without the assistance of a health care provider, shall obtain a hearing screening within thirty (30) days by taking the newborn to a hospital, physician, or facility that performs hearing screening. The department of health and TEIS shall also assist in identifying appropriate facilities that provide hearing screening.

(c) For infants born in a location other than a hospital or birthing center who do not have health insurance coverage, the program will provide for hearing screening based upon a fee to be promulgated by the department.

SECTION 8. If the parent or parents or legal guardian of the newborn object to the hearing screening on the grounds that such test conflicts with religious tenets and practices, such test shall not be completed, and the parent or parents or legal guardian shall sign a written statement to that effect.

SECTION 9. The commissioner shall have the authority to formalize agreements with agencies in other states to provide services as may be needed.

SECTION 10. For the purposes of promulgation of rules, development of agreements and development of program structure, this act shall take effect July 1, 2001; for the purpose of mandatory hearing screening, this act will take place on July 1, 2003, the public welfare requiring it.